



Sen. Cristina Castro

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10200HB4600sam002

LRB102 23985 SPS 38898 a

1 AMENDMENT TO HOUSE BILL 4600

2 AMENDMENT NO. _____. Amend House Bill 4600 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. If and only if House Bill 5412 of the 102nd
5 General Assembly becomes law, then the Department of
6 Transportation Law of the Civil Administrative Code of
7 Illinois is amended by adding Section 2705-620 as follows:

8 (20 ILCS 2705/2705-620 new)

9 Sec. 2705-620. Bond Reform in the Construction Industry
10 Task Force.

11 (a) There is created the Bond Reform in the Construction
12 Industry Task Force consisting of the following members:

13 (1) the Governor, or his or her designee;

14 (2) the State Treasurer, or his or her designee;

15 (3) the Director of Insurance, or his or her designee;

16 (4) 2 members appointed by the Speaker of the House of

1 Representatives;

2 (5) 2 members appointed by the Minority Leader of the
3 House of Representatives;

4 (6) 2 members appointed by the President of the
5 Senate;

6 (7) 2 members appointed by the Minority Leader of the
7 Senate; and

8 (8) 7 members representing the construction industry
9 appointed by the Governor.

10 The Department of Transportation shall provide
11 administrative support to the Task Force.

12 (b) The Task Force shall study innovative ways to reduce
13 the cost of insurance in the private and public construction
14 industry while protecting owners from risk of nonperformance.
15 The Task Force shall consider options that include, but are
16 not limited to, owner-financed insurance instead of
17 contractor-financed insurance and alternative ways to manage
18 risk other than bonds or other insurance products.

19 (c) The Task Force shall report its findings and
20 recommendations to the General Assembly no later than March 1,
21 2023.

22 (d) This Section is repealed December 31, 2023.

23 Section 10. If and only if House Bill 5412 of the 102nd
24 General Assembly becomes law, then the Illinois Wage Payment
25 and Collection Act is amended by changing Section 13.5 as

1 follows:

2 (820 ILCS 115/13.5)

3 Sec. 13.5. Primary contractor responsibility for wage
4 claims in construction industry.

5 (a) For all contracts entered into on or after July 1,
6 2022, a primary contractor making or taking a contract in the
7 State for the erection, construction, alteration, or repair of
8 a building, structure, or other private work in the State
9 where the aggregate costs of the project exceed \$20,000 ~~τ~~
10 shall assume, and is liable for, any debt owed to a claimant
11 under this Section ~~or to a third party on a wage claimant's~~
12 ~~behalf incurred pursuant to this Act~~ by a subcontractor at any
13 tier acting under, by, or for the primary contractor for the
14 wage claimant's performance of labor included in the subject
15 of the contract between the primary contractor and the owner.
16 This Section does not apply to work performed by a contractor
17 of the federal government, the State, a special district, a
18 city, a county, or any political subdivision of the State.

19 (b) As used in this Section:

20 "Construction" means building, altering, repairing,
21 improving, or demolishing any structure or building or making
22 improvements of any kind to real property.

23 "Primary contractor" means a contractor that has a direct
24 contractual relationship with a property owner. "Primary
25 contractor" may have the same meaning as a "general

1 contractor", "prime contractor", or "construction manager". A
2 property owner who acts as a primary contractor related to the
3 erection, construction, alteration, or repair of his or her
4 primary residence shall be exempt from liability under this
5 Section.

6 "Private work" means any erection, construction,
7 alteration, or repair of a building, structure, or other work.

8 "Subcontractor" means a contractor that has a contractual
9 relationship with the primary contractor or with another
10 subcontractor at any tier, who furnishes any goods or services
11 in connection with the contract between the primary contractor
12 and the property owner, but does not include contractors who
13 solely provide goods and transport of such goods related to
14 the contract.

15 (c) The primary contractor's liability under this Section
16 shall extend only to any unpaid wages or fringe or other
17 benefit payments or contributions, including interest owed,
18 penalties assessed by the Department, and reasonable
19 attorney's fees, but shall not extend to liquidated damages.

20 (d) A primary contractor or any other person shall not
21 evade or commit any act that negates the requirements of this
22 Section. Except as otherwise provided in a contract between
23 the primary contractor and the subcontractor, the
24 subcontractor shall indemnify the primary contractor for any
25 wages, fringe or other benefit payments or contributions,
26 damages, interest, penalties, or attorney's fees owed as a

1 result of the subcontractor's failure to pay wages or fringe
2 or other benefit payments or contributions as provided in this
3 Section, unless the subcontractor's failure to pay was due to
4 the primary contractor's failure to pay moneys due to the
5 subcontractor in accordance with the terms of their
6 contractual relationship.

7 (e) Nothing in this Section shall supersede or modify the
8 obligations and liability that any primary contractor,
9 subcontractor, or property owner may bear as an employer under
10 this Act or any other applicable law. The obligations and
11 remedies provided in this Section shall be in addition to any
12 obligations and remedies otherwise provided by law. Nothing in
13 this Section shall be construed to impose liability on a
14 primary contractor for anything other than unpaid wages,
15 fringe or other benefit payments or contributions, penalties
16 assessed by the Department, interest owed, and reasonable
17 attorney's fees.

18 (f) Claims brought pursuant to this Section shall be done
19 so in accordance with ~~Section 11 and 11.5~~ of this Act. Nothing
20 in this Section shall be construed to provide a third party
21 with the right to file a complaint with the Department
22 alleging violation of this Section.

23 (g) The following shall be exempt from liability under
24 this Section:

25 (1) primary contractors who are parties to a
26 collective bargaining agreement on the project where the

1 work is being performed; and

2 (2) primary contractors making or taking a contract in
3 the State for the alteration or repair of an existing
4 single-family dwelling or to a single residential unit in
5 an existing multi-unit structure. Primary contractors who
6 ~~are parties to a collective bargaining agreement on the~~
7 ~~project where the work is being performed shall be exempt~~
8 ~~from this Section.~~

9 (h) Prior to the commencement of any civil action, a
10 claimant or a representative of a claimant shall provide
11 written notice to the employer and to the primary contractor
12 detailing the nature and basis for the claim. Failure of the
13 employer or the primary contractor to resolve the claim within
14 10 days after receipt of this notice, or during any agreed upon
15 period extending this deadline, may result in the filing of a
16 civil action to enforce the provisions of this Act.

17 (i) Claims brought pursuant to this Section shall be filed
18 with the Department of Labor or filed with the circuit court
19 within 3 years after the wages, final compensation, or wage
20 supplements were due. This subsection does not apply to any
21 other claims under this Act or any other applicable law
22 against a primary contractor, subcontractor, or homeowner as
23 an employer.

24 (Source: 10200HB5412eng.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law or on the date House Bill 5412 of the 102nd
2 General Assembly takes effect, whichever is later."